

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ROGER RAMIREZ,	§	No.
	§	
Plaintiff,	§	
	§	
v.	§	
	§	
FINANCIAL RECOVERY SERVICES,	§	
INC.,	§	
	§	
Defendant.	§	

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, ROGER RAMIREZ (Plaintiff), through his attorneys, KROHN & MOSS, LTD., alleges the following against Defendant, FINANCIAL RECOVERY SERVICES, INC. (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
4. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.

5. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

6. Plaintiff is a natural person residing in Pearland, Brazoria County, Texas.
7. Plaintiff is a consumer as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is an alleged debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiff.
9. Defendant is a collection agency with a business office in Minneapolis, Minnesota.
10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. Defendant is attempting to collect a debt from Plaintiff on behalf of the original creditor, Washington Mutual, account number ending in 1909 (Defendant's reference # CKN892).
12. Plaintiff's debt owed to Washington Mutual arises from transactions for personal, family, and household purposes.
13. On December 6, 2010, Plaintiff's counsel faxed a cease and desist and a notice of representation letter to Defendant (Plaintiff's counsel's letter to Defendant and fax confirmation are attached as Group Exhibit A).
14. Despite receiving Plaintiff's counsel's letter (Exhibit A), Defendant communicated with Plaintiff after December 6, 2010, in an attempt to collect a debt (Defendant's letter to Plaintiff dated January 21, 2011, is attached as Exhibit B).

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(a)(2) of the FDCPA by communicating with Plaintiff even though Defendant knew Plaintiff was represented by an attorney.
- b. Defendant violated §1692c(c) of the FDCPA by communicating with Plaintiff after Defendant received Plaintiff's cease and desist letter.

WHEREFORE, Plaintiff, ROGER RAMIREZ, respectfully requests judgment be entered against Defendant, FINANCIAL RECOVERY SERVICES, INC., for the following:

- 16. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
- 17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
- 18. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, ROGER RAMIREZ, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

KROHN & MOSS, LTD.

By: s/ Michael S. Agruss

Michael S. Agruss (CA SBN: 259567)

Krohn & Moss, Ltd.

10474 Santa Monica Blvd., Suite 401

Los Angeles, CA 90025

Tel: 323-988-2400 x235

Fax: 866-583-3695

magruss@consumerlawcenter.com

Attorneys for Plaintiff

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF TEXAS

Plaintiff, ROGER RAMIREZ, states the following:

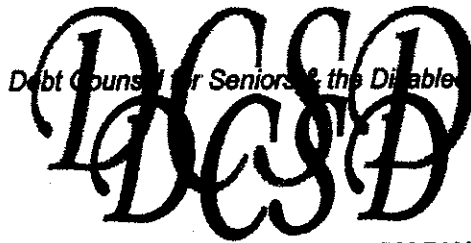
- 1 I am the Plaintiff in this civil proceeding
- 2 I have read the above-entitled civil Complaint prepared by my attorneys and I believe that
all of the facts contained in it are true, to the best of my knowledge, information and
belief formed after reasonable inquiry
- 3 I believe that this civil Complaint is well grounded in fact and warranted by existing law
or by a good faith argument for the extension, modification or reversal of existing law
- 4 I believe that this civil Complaint is not interposed for any improper purpose, such as to
harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a
needless increase in the cost of litigation to any Defendant(s), named in the Complaint
- 5 I have filed this Complaint in good faith and solely for the purposes set forth in it
- 6 Each and every exhibit I have provided to my attorneys which has been attached to this
Complaint is a true and correct copy of the original.
- 7 Except for clearly indicated redactions made by my attorneys where appropriate, I have
not altered, changed, modified or fabricated these exhibits, except that some of the
attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U S C § 1746(2), I, ROGER RAMIREZ, hereby declare (or certify,
verify or state) under penalty of perjury that the foregoing is true and correct.

3/26/2011
Date


ROGER RAMIREZ

EXHIBIT A



December 6, 2010

BY FAX ONLY: 952-831-6700
Page 1 of 3

Collections Manager
Financial Recovery Services
P.O. Box 385908
Minneapolis, MN 55438-5908

Re: **Roger Ramirez & Ruby Ramirez**
Your reference # Ending in 1909 - Chase: Ending in 1909
Our file # 11816

To Whom It May Concern:

Please be advised that my law firm represents the above-referenced client(s) for the purpose of enforcing their rights pursuant to all applicable federal debt collection laws. Debt Counsel for Seniors and the Disabled exclusively represents clients who are senior citizens, disabled or both and whose only income (e.g. social security, disability, etc) is protected by federal law. This client regrets not being able to pay however, at this time they are insolvent as their monthly expenses exceed the amount of income they receive.

This letter serves as notice that my client hereby **disputes** the above-referenced alleged debt and requests **validation** of it in accordance with 15 U.S.C. § 1692g. Please provide the name and address of the original creditor, if different from the current creditor. Unless and until this validation is furnished, we do not recognize any right on your part to collection any amount from our client through credit reporting or any other means. Please be advised that the continuation of collection activity without adequately responding to the validation request, could result in a lawsuit against you pursuant to 15 U.S.C. §1692g(b).

As the client's attorney, I respectfully inform you that you must **cease** contacting them pursuant to 15 U.S.C. § 1692c(a)(2) **and** 1692c(c). I have attached a signed **cease and desist** order from my client(s). If and when you violate these statutes, I will not hesitate to pursue with local co-counsel all legal remedies on behalf of my client(s).

Sincerely,

Jerome S. Lamet
Supervising Attorney
Debt Counsel for Seniors and the Disabled

Cc: Roger Ramirez & Ruby Ramirez

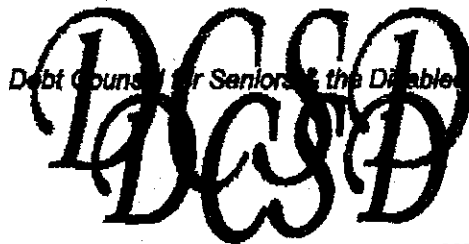
Jerome S. Lamet, Supervising Attorney
The Pontiac Building
542 South Dearborn
Suite 1260
Chicago, Illinois 60605
V: (312) 939-2221
F: (312) 939-27411

TRANSMISSION VERIFICATION REPORT

TIME : 12/06/2010 13:11
NAME : JEROME LAMET LTD
FAX : 13123563199
TEL : 13129392221
SER.# : BROD8J797996

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

12/06 13:11
19528316700
00:00:33
03
OK
STANDARD
ECM



December 6, 2010

BY FAX ONLY: 952-831-6700
Page 1 of 3

Collections Manager
Financial Recovery Services
P.O. Box 385908
Minneapolis, MN 55438-5908

Re: Roger Ramirez & Ruby Ramirez
Your reference # Ending in 1909 - Chase: Ending in 1909
Our file # 11818

To Whom It May Concern:

Please be advised that my law firm represents the above-referenced client(s) for the purpose of enforcing their rights pursuant to all applicable federal debt collection laws. Debt Counsel for Seniors and the Disabled exclusively represents clients who are senior citizens, disabled or both and whose only income (e.g. social security, disability, etc.) is protected by federal law. This client regrets not being able to pay however, at this time they are insolvent as their monthly expenses exceed the amount of income they receive.

This letter serves as notice that my client hereby disputes the above-referenced alleged debt and requests validation of it in accordance with 15 U.S.C. § 1692g. Please provide the name and address of the original creditor, if different from the current creditor. Unless and until this validation is furnished, we do not recognize any right on your part to collection any amount from our client through credit reporting or any other means. Please be advised that the continuation of collection activity without adequately responding to the validation request, could result in a lawsuit against you pursuant to 15 U.S.C. §1692g(b).

As the client's attorney, I respectfully inform you that you must cease contacting them pursuant to 15 U.S.C. § 1692c(a)(2) and 1692c(c). I have attached a signed cease and desist order from my client(s). If and when you violate these statutes, I will not hesitate to pursue with local

EXHIBIT B

Feb 07 11 01:15p

R.E.R. ENTERPRISES

00000000000000

P.5

DEPT 818 3810728711019
PO BOX 4115
CONCORD CA 94524

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

FINANCIAL RECOVERY SERVICES, INC.

P.O. Box 385908
Minneapolis, MN 55438-5908
1-877-901-7987

Return Service Requested

January 21 2011

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

CKN892
ROGER RAMIREZ
PEARLAND TX 77581-4582

CLIENT: RESURGENT CAPITAL SERVICES LP
CURRENT CREDITOR: LVNV FUNDING LLC
REGARDING: WASHINGTON MUTUAL
ACCOUNT NUMBER: XXXXXXXXXXXX1909
BALANCE \$8,721.51

*******TAX REFUND DISCOUNT*******

ARE YOU RECEIVING A TAX REFUND? WE ARE WILLING TO OFFER YOU A SUBSTANTIAL DISCOUNT ON THE SETTLEMENT OF THE ABOVE REFERENCED ACCOUNT. TO MAKE THIS EASIER FOR YOU TO RESOLVE WE ARE AUTHORIZED TO OFFER YOU THE OPPORTUNITIES LISTED BELOW:

- () MY ACCOUNT WILL BE PAID IN FULL BY A ONE-TIME PAYMENT EQUIVALENT TO \$8,721.51; OR
- () MY ACCOUNT WILL BE SETTLED IN FULL BY A ONE-TIME PAYMENT IN THE AMOUNT OF \$5,232.91; OR
- () MY ACCOUNT WILL BE SETTLED IN FULL BY THREE CONSECUTIVE MONTHLY PAYMENTS OF \$2,180.38 FOR A TOTAL REPAYMENT OF \$6,541.14

PLEASE MARK YOUR CHOICE WITH AN "X" IN THE SPACE PROVIDED AND FORWARD WITH YOUR PAYMENT TO THE ADDRESS LISTED BELOW. OTHER OPTIONS MAY BE AVAILABLE. YOU MAY CONTACT THE REPRESENTATIVE LISTED BELOW WITH ANY QUESTIONS.

THESE OFFERS WILL EXPIRE. WE ARE NOT OBLIGATED TO RENEW THESE OFFERS. IF YOU NEED ADDITIONAL TIME TO TAKE ADVANTAGE OF THESE OFFERS, PLEASE CALL OUR OFFICE---WE ARE WILLING TO LISTEN TO ANY OFFERS YOU MAY WISH TO MAKE. YOU NEED TO RESPOND TO TAKE ADVANTAGE OF THIS INCREDIBLE OFFER. IF THE CREDITOR HAS REPORTED THIS ACCOUNT TO A CREDIT REPORTING AGENCY THE CREDITOR MUST UPDATE THE REPORT TO REFLECT THE SETTLEMENT OF THIS DEBT.

SINCERELY

DAN JENSEN
ACCOUNT MANAGER
TOLL FREE: 1-877-901-7987

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR. SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

Office hours are: Monday-Thursday, 7am to 8pm; Friday 7am to 5pm; Saturday 7am to noon

DETACH AND RETURN THIS PORTION OF THIS NOTICE WITH YOUR PAYMENT

NOTE: ANY CHECK RETURNED FOR INSUFFICIENT FUNDS OR ACCOUNT CLOSED WILL BE ASSESSED A \$15.00 CHARGE

AMOUNT ENCLOSED: _____

FRS File#: CKN892

HOME PHONE: _____

WORK PHONE: _____



PLEASE CHECK YOUR PAYMENT OPTION BELOW:
() PAID IN FULL - \$8,721.51
() SETTLED IN FULL - \$5,232.91
() SETTLED IN 3 EQUAL PAYMENTS OF \$2,180.38
TOTALING - \$6,541.14

THESE OFFERS WILL EXPIRE
TOLL FREE 1-877-901-7987

FINANCIAL RECOVERY SERVICES, INC.
P.O. BOX 385908
MINNEAPOLIS, MN 55438-5908

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

ROGER RAMIREZ
PEARLAND TX 77581-4582



PHS041-0120-118676491 3289